

# **Internal HR Investigations: The Good, The Bad, The Ugly**

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**Indiana State**  
**Personnel Department**

# Why is this important?

- **FY 2018 EEOC – Nationwide**
  - 76,418 Charges
- **FY 2018 EEOC – Indiana**
  - 1,890 Charges
- **Increase in Complaints/Investigations**
  - ICRC Employment Complaints (~54% increase):
    - 2017: 324
    - 2018: 500
  - State of Indiana (Executive Branch)
    - ~97% increase from 2017 to 2018
    - Trending higher in 2019
- **Heightened Awareness**
  - #MeToo and #TimesUp Movements
  - Modernization of Harassment Prevention Policies and Programming



# Topics Covered



# Agency/Organization Policy and Programming

- **Develop/Implement a Policy**

- Protected Status categories
  - Race, color, creed, religion, sex, national origin, ancestry, age, sexual orientation or gender identity, physical or mental disability, and veteran status (State of Indiana - Executive Branch)
- Definitions/Descriptions
- Process for reporting, investigating, and resolving complaints
- Protections
- Onboarding and annual refresher courses

- **Update Policy/Programming as needed**

- Static? Outdated?
- Modernize
- Update protected categories
- Train whole workforce, including executive leadership



# Complaint Reporting Pathways

- **Internal Reporting Structure**

- Agency AA/EEO/ADA Coordinator
- Human Resources Staff/Director
- Supervisor/Management

- **External Reporting**

- Indiana Civil Rights Commission (ICRC)
- Equal Employment Opportunity Commission (EEOC)



# Investigation Training

- **Internal Training**

- Formalized Training/Workshops
- Shadowing/Hands-on Experience
- Develop Guides and other Resources
  - Tracking Programs

- **External Training**

- Formal Comprehensive Investigation Training
  - Identify what investigation model/technique is appropriate
- SHRM/CLEs/etc.



# Investigation Process

1. Intake
2. Collect Evidence
  1. Review documents and other evidence
  2. Prepare for interviews
  3. Conduct interviews (Complainant, Witnesses, Respondent)
  4. Request and collect any additional evidence
3. Assess Evidence
4. Draw Conclusions and write Investigation Report with findings and recommendations
5. Take Action



# Investigation Intake

1. Informal
2. Formal



**Indiana State Personnel Department**  
 Britni Saunders  
 State Personnel Director

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 Governor

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**Complaint Intake Form**  
 (for internal use only by State Personnel Department staff)

Complainant Name			
Complainant's E-mail		Complainant's Phone Number	
Complainant's Agency		Complainant's Position	
Date Received		Received By	

Phone     
  Email     
  Standard Mail     
  In-Person  
 Other \_\_\_\_\_

Date(s) of Incident	Time(s) of Incident
<b>Respondent(s) Identified In Complaint</b>	
Name	Position/Agency/Supervisor

<b>Detailed description of allegations, including Complainant's reaction to incident:</b>

<b>Person(s) who witnessed the incident(s), if any:</b>

<b>Additional Questions</b>
Nature of relationship between Complainant and Respondent (supervisor/subordinate, co-workers, strangers, friends, etc.)?
Has this kind of incident happened before to the Complainant? If yes, please provide date and description of incident.
Has this kind of behavior been previously reported about Respondent? If so, to whom and when was it reported?

<b>Additional Notes:</b>

Are there attachments? Yes/No. If complaint was made in writing, always attach the document(s), including any emails. If complaint was made through a call center, ask for the recording to be saved. If complainant hands you any documents, please attach them.

INSPD Representative \_\_\_\_\_

Date \_\_\_\_\_

Equal Opportunity Employer

State of Indiana

www.IN.gov/spd

# Evidence Collection

1. Review documents and other evidence (email, phone records, etc.)
2. Prepare for interviews
3. Conduct interviews (Complainant, Witnesses, Respondent)
  1. Fact-Finding Role
  2. Focus and limit questions to matter at hand
  3. Identify possible other witnesses
4. Request and collect any additional evidence



# Evidence Assessment

1. What story does the evidence tell?
2. Are there any gaps in that story that need to be filled?
3. Credibility determinations
  1. Do witness statements match up with other evidence/facts?
  2. What to do in a he said/she said situation?



# Final Report

Write Investigation Report with findings and recommendations:

1. Summarize evidence
2. Focus on the conduct/behavior – what is substantiated?
3. Did the conduct violate a policy?
4. Does the conduct warrant adverse employment action?
  1. If so, what level is appropriate?
  2. Are other options more appropriate?
  3. Are there due process or other contractual considerations?
5. Who is the audience for the report?
6. Precautions



# Take Action

1. Who takes the next step?
2. Follow up with Complainant
3. Follow up with Respondent
4. Implement Adverse Employment Action
5. Rehabilitate Workplace as needed



# Special Procedures

1. Sexual Harassment Complaints
2. Third Parties
3. Executive Level Staff



# Retaliation Prohibitions

- **Retaliation for filing a complaint is prohibited**
  - Agency/Organization Policy
  - Title VII and other Federal/State employment laws (ADA, ADEA, etc.)
- **Retaliation for engaging in a protected activity is prohibited**
  - Agency/Organization Policy
  - Title VII and other Federal/State employment laws (ADA, ADEA, etc.)



# Questions?

## Investigation Related Resources:

1. State of Indiana Policy: <https://www.in.gov/spd/files/harasspol.pdf>
2. EEOC: <https://www.eeoc.gov/eeoc/publications/promising-practices.cfm>
3. Washington State Human Rights Commission Model Policies and Best Practices: <http://www.Ini.wa.gov/WorkplaceRights/files/Policies/IntroductionSexualHarassmentPolicyBestPractices.pdf>
4. ICRC: <https://www.in.gov/icrc/>

